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08 JUN -5 PM 4:09
RICHARD W. MANGELS
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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CROSBY, INC., a Pennsylvania corporation

E-filing

PJH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 08 2824

PRODIANCE CORPORATION,

Plaintiff,

v.

TOWERS, PERRIN, FORSTER & CROSBY,
INC.,

Defendant.

CASE NO.
CASE NO. C08-01214 (Contra Costa County)

NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. § 1441(b)
[DIVERSITY JURISDICTION]

Complaint filed:
Trial date:

May 6, 2008
none set

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441(b), Defendant
Towers, Perrin, Forster & Crosby, Inc., a Pennsylvania corporation ("**Towers**") hereby removes to
the United States District Court for the Northern District of California the matter of *Prodiance
Corporation v. Towers, Perrin etc.*, Contra Costa County Superior Court Case Number C08-01214
(the "**State Court Action**"). This removal is based on the following grounds:

I. JURISDICTION

The State Court Action is a civil action of which this Court has original jurisdiction
under 28 U.S.C. § 1332, and is one which may be removed to this Court by Towers pursuant to the
provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and

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ORIGINAL

the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

A. Amount in Controversy

In its complaint for the State Court Action (the "**Complaint**"), Plaintiff Prodiance Corporation ("**Prodiance**") seeks \$205,000, plus interest at the legal rate thereon, in addition to its attorneys' fees and litigation costs, alleging causes of action under the theories of Breach of Contract, Work, Labor, Services and Materials, Account Stated, and Goods Sold and Delivered.¹ See Complaint at p.2 ¶ 10, p.3 ¶ BC-1, p.4 ¶ CC-1. Thus, the claims of Prodiance exceed the sum or value of \$75,000, exclusive of interest and costs. See 28 U.S.C. § 1332(a).

B. Citizenship

Complete diversity of citizenship exists in that none of the parties of the State Court Action are citizens of the same state, and Towers, at all relevant times, has not been a citizen of the state California. See 28 U.S.C. § 1332(a)(1).

Towers. At the time of the filing of the State Court Action (May 6, 2008), as well as the date of the filing of this Notice of Removal, Towers is and was a Pennsylvania corporation with its principal place of business located at Stamford, Connecticut.

Prodiance. Prodiance is a Delaware corporation with its principal place of business in San Ramon, California. See Complaint at p.1 ¶ 1.

II. VENUE

Venue is proper in the United States District Court for the Northern District of California because the State Court Action was originally filed in the Superior Court of California, County of Contra Costa. See 28 U.S.C. § 1441(a), Local Rule 3-2(d).

III. INTRADISTRICT ASSIGNMENT

A substantial part of the acts or omissions giving rise to the State Court Action occurred in the County of Contra Costa. See Complaint at p.2 ¶ 7; Local Rule 3-5(b).

IV. TIMELINESS

On May 7, 2008, Prodiance served the Complaint on Towers' registered agent. This

¹ True and correct copies of the Complaint, Summons, and all other documents served concurrently therewith, are collectively attached hereto as **Exhibit 1**.

1 was the first date on which Towers received a copy of the Complaint. Towers' response to the
 2 Complaint is due on or before June 6, 2008, and thus, this Notice of Removal is timely. See 28
 3 USC § 1446(b); Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 354 (1999).

4 **V. PROCESS, PLEADINGS AND ORDERS**

5 Other than the Complaint and the documents served therewith, no other process,
 6 pleading or order has been served on Towers in the State Court Action, nor have any further
 7 proceedings taken place. Pursuant to 28 USC § 1446(b), copies of the Complaint and the
 8 documents served therewith are collectively attached hereto as **Exhibit 1**.

9 **VI. NOTICE**

10 Promptly after filing this Notice of Removal, Towers will give written notice of this
 11 pleading to Prodiance and will file a copy of this Notice of Removal with the Superior Court for the
 12 County of Contra Costa. 28 U.S.C. § 1446(d).

13 **VII. CONCLUSION**

14 Removal of the State Court Action to this Court is proper pursuant to the provisions
 15 of 28 U.S.C. § 1441(b). This Notice of Removal was filed in a timely manner and the State Court
 16 Action is a civil action between citizens of different states with the amount in controversy
 17 exceeding the sum of \$75,000, exclusive of interest and costs. The State Court Action was filed in
 18 the Superior Court of California, County of Contra Costa, and the events and occurrences giving
 19 rise to the State Court Action occurred in the County of Contra Costa. This Notice of Removal was
 20 filed in a timely matter. Accordingly, the State Court Action is properly removed to this Court.

21
 22 DATED: June 5, 2008

JEFFER, MANGELS, BUTLER & MARMARO LLP
 ROBERT E. MANGELS
 MATTHEW S. KENEFICK

23
 24
 25 By: 

26 MATTHEW S. KENEFICK
 27 Attorneys for Defendant TOWERS, PERRIN,
 28 FORSTER & CROSBY, INC., a Pennsylvania
 corporation

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 Jeffer Mangels
 Butler & Marmaro LLP

EXHIBIT 1

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Towers, Perrin, Forster & Crosby, Inc.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Prodiance Corporation

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

2008 MAY -6 1 P 2:11

K. TORRE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

J. M. VOVICH

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER:
(Número de Caso) 08-01214

Superior Court of California, County of Contra Costa

725 COURT ST.
MARTINEZ, CA 94553

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Pillsbury Winthrop Shaw Pittman LLP

(650) 233-4500

(650) 233-4545

Vernon H. Granneman (SBN 083532)

2475 Hanover Street

Palo Alto, CA 94304

DATE:

(Fecha)

Clerk, by _____

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

(SEAL)

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Tower, Perrin, Forster & Crosby, Inc.
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Page 1 of 1

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): PILLSBURY WINTHROP SHAW PITTMAN LLP Vernon H. Granneman (SBN 083532) 2475 Hanvoer Street Palo Alto, CA 94304</p> <p>TELEPHONE NO: (650) 233-4500 FAX NO. (Optional): (650) 233-4545</p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): Prodiance Corporation</p>	<p style="text-align: center;">FOR COURT USE ONLY</p> <div style="font-size: 2em; font-weight: bold; text-align: center;">FILED</div> <p style="text-align: center;">2008 MAY -6 P 2:12</p> <p style="text-align: center;">K. TORRE, CLERK OF THE SUPERIOR COURT COUNTY OF CONTRA COSTA, CALIF.</p> <p style="text-align: center;">BY: _____</p> <p style="text-align: center;">J. Myovich</p> <p style="text-align: center; margin-top: 20px;">SUMMONS ISSUED</p> <p style="text-align: center; margin-top: 20px;">PER LOCAL RULE 5 THIS CASE IS ASSIGNED TO DEPT. <u>7</u></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA</p> <p>STREET ADDRESS: 725 COURT ST.</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE: MARTINEZ, CA 94553</p> <p>BRANCH NAME:</p>	
<p>PLAINTIFF: Prodiance Corporation</p> <p>DEFENDANT: Towers, Perrin, Forster & Crosby, Inc.</p> <p><input type="checkbox"/> DOES 1 TO _____</p>	
<p><input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> CONTRACT <input type="checkbox"/> AMENDED COMPLAINT (Number):</p> <p><input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number):</p>	
<p>Jurisdiction (check all that apply):</p> <p><input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000</p> <p><input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)</p> <p><input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint</p> <p> <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited</p>	<p>CASE NUMBER:</p> <p style="font-size: 1.5em; font-weight: bold;">C 08-01214</p>

1. Plaintiff* (name or names): **Prodiance Corporation**, a Delaware corporation having its principal place of business in San Ramon, California.
 alleges causes of action against defendant* (name or names): **Towers, Perrin, Forster & Crosby, Inc.**, a Pennsylvania Corporation qualified to do business in California ("TPFC")
2. This pleading, including attachments and exhibits, consists of the following number of pages: **12**
3. a. Each plaintiff named above is a competent adult
 - ☒ except plaintiff (name): **Prodiance**
 - (1) ☒ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ other (specify):
 - b. ☒ Plaintiff (name): **Prodiance**
 - a. ☒ has complied with the fictitious business name laws and is doing business under the fictitious name (specify): **Prodiance**
 - b. ☐ has complied with all licensing requirements as a licensed (specify):
 - c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.
4. a. Each defendant named above is a natural person
 - ☒ except defendant (name): **TPFC**
 - (1) ☐ a business organization, form unknown
 - (2) ☐ a corporation
 - (3) ☐ an unincorporated entity (describe):
 - (4) ☐ a public entity (describe):
 - (5) ☐ other (specify):
 - ☐ except defendant (name):
 - (1) ☐ a business organization, form unknown
 - (2) ☐ a corporation
 - (3) ☐ an unincorporated entity (describe):
 - (4) ☐ a public entity (describe):
 - (5) ☐ other (specify):

By Fax

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

Page 1 of 2

PLD-C-001

SHORT TITLE: Prodiance v. Towers, Perrin, et al.	CASE NUMBER:
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4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

- (1) ☐ Doe defendants (specify Doe numbers): _____ were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) ☐ Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.
- c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.
- d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names): _____

5. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify): _____

6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

- a. ☒ a defendant entered into the contract here.
- b. ☐ a defendant lived here when the contract was entered into.
- c. ☐ a defendant lives here now.
- d. ☒ the contract was to be performed here.
- e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. ☐ real property that is the subject of this action is located here.
- g. ☐ other (specify): _____

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- ☒ Breach of Contract
- ☒ Common Counts
- ☐ Other (specify): _____

9. ☐ Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. ☒ damages of: \$ 205,000.00
- b. ☒ Interest on the damages
- (1) ☒ according to proof
- (2) ☐ at the rate of (specify): _____ percent per year from (date): _____
- c. ☒ attorney's fees
- (1) ☐ of: \$ _____
- (2) ☒ according to proof.
- d. ☐ other (specify): _____

11. ☒ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

4

Date: May 6, 2008

Vernon H. Granneman

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

PLD-C-001(1)

SHORT TITLE:

Prodiance v. Towers, Perrin, et al.

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—Breach of Contract

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): Prodiance

alleges that on or about (date): 12/21/07

a ☒ written ☐ oral ☐ other (specify):

agreement was made between (name parties to agreement): Prodiance and TPFC

☒ A copy of the agreement is attached as Exhibit A, or☐ The essential terms of the agreement ☐ are stated in Attachment BC- 1 ☐ are as follows (specify):

BC-2. On or about (dates): March 19, 2008

defendant breached the agreement by ☐ the acts specified in Attachment BC-2 ☒ the following acts (specify): failing to perform and totally repudiating its obligations under the contract. Defendant TPFC failed and refused to pay invoices presented by Prodiance to TPFC, copies of the invoices are attached collectively as Exhibit B.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

☐ as stated in Attachment BC-4 ☒ as follows (specify): \$205,000 plus interest at the legal rate according to proof.BC-5. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☐ according to proof.BC-6. ☐ Other:

Page 3

Page 1 of 1

PLD-C-001(2)

SHORT TITLE:
Prodiance v. Towers, Perrin, et al.

CASE NUMBER:

SECOND CAUSE OF ACTION—Common Counts

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): Prodiance

alleges that defendant (name): TPFC

became indebted to ☒ plaintiff ☐ other (name):

- a. ☒ within the last four years
- (1) ☐ on an open book account for money due.
- (2) ☒ because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.
- b. ☒ within the last ☒ two years ☐ four years
- (1) ☐ for money had and received by defendant for the use and benefit of plaintiff.
- (2) ☒ for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff
- ☐ the sum of \$
- ☒ the reasonable value.
- (3) ☒ for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff
- ☐ the sum of \$
- ☒ the reasonable value.
- (4) ☐ for money lent by plaintiff to defendant at defendant's request.
- (5) ☐ for money paid, laid out, and expended to or for defendant at defendant's special instance and request.
- (6) ☐ other (specify):

CC-2. \$ 205,000.00, which is the reasonable value, is due and unpaid despite plaintiff's demand,

plus prejudgment interest ☒ according to proof ☐ at the rate of _____ percent per year
from (date): March 19, 2008

CC-3. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute

☐ of \$

☐ according to proof.

CC-4. ☐ Other:

Page 4

Page 1 of 1

EXHIBIT

A

PRODIANCE

Increasing Productivity. Enabling Compliance.



Software License and Services Agreement for Prodiance Corporation

This Software License and Services Agreement ("Agreement"), dated as of December 21, 2001 ("Effective Date"), is made by and between Prodiance Corporation, a Delaware corporation with a principal place of business at 5000 Executive Parkway, San Ramon, California 94583 ("Licensor") and Jack & Perry, a PA corporation with a principal place of business at Centre Sq East 1500 Market St. Philadelphia, PA 19102-4740 ("Licensee").

Prodiance Corporation ("Licensor") grants to the end user ("Licensee"), and Licensee accepts for consideration, a non-transferable, non-exclusive right to use the Licensed Products in accordance with the terms and conditions set forth in this document.

This license agreement also applies to all software additions subsequently provided as a result of the Licensee's original purchase.

LICENSEE ACKNOWLEDGES THAT LICENSEE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. LICENSEE ALSO AGREES THAT THIS LICENSE, ALONG WITH THE ATTACHED SCHEDULES, STATES THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND SUPERSEDES ALL PRIOR AGREEMENTS, COMMITMENTS OR REPRESENTATIONS OF ANY KIND, ORAL OR WRITTEN, AND MAY ONLY BE AMENDED IN WRITING BY DULY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.

1. DEFINITIONS

"Licensed Product(s)" shall mean any Program Code, Program Documentation, Revision, or other related material, supplied by Licensor under this License that were ordered by Licensor.

"License" the non-exclusive non-transferable right to use the Licensed Products subject to the terms and conditions of this Agreement.

"License Fees" shall mean fees identified in Licensor's applicable list of fees, as listed in the quotation of an authorized representative of Licensor, current as of the date of this License.

"License Manager" shall mean a portion of the Licensed Product that monitors Use of the Licensed Product.

"Capacity" shall mean the maximum number of licensed Users authorized to execute the Licensed Product and the maximum number of servers authorized for use with the Licensed Product.

The products contained in the "PRODIANCE ENTERPRISE COMPLIANCE" suite are the Licensed Products engineered and developed by Prodiance Corporation, which is the subject of this Agreement.

"Third Party Applications" resold through Prodiance shall carry and be governed by their respective end user software license agreement.

"Program Code" shall mean any instruction or set of instructions, in machine or human readable form, directly or indirectly, executable on a System.

"Program Documentation" shall mean any standard manuals, release notes, or other related materials in printed or electronic form that may be provided by Licensor with each licensed Program Code or Revision.

"Revision" shall mean corrections or enhancements to any Licensed Product supplied to Licensee by Licensor.

"System" shall mean one or more computer(s) capable of executing the Licensed Product that are configured

using the Licensed Product to intercommunicate with the License Manager.

"System Descriptor" shall mean a means to identify a System, such as a computer network node name, network address, or other such characteristic that Licensor may specify.

"Use" shall mean executing any portion of Licensed Product on a System.

"User" shall mean a person, process or program logged into the PRODIANCE CORPORATION ENTERPRISE COMPLIANCE SUITE, making Use of the Licensed Product.

"Consulting Services" provision of assistance provided by the Licensor as requested by the Licensee for use in the Licensed Products.

"Maintenance Services" the provision of (i) telephone support, bug fixes and workarounds for the correction of Errors, and (ii) New Releases.

2. LICENSE GRANT

2.1 Subject to the terms of this Agreement, Licensee is granted a perpetual, non-transferable, non-exclusive right to Use Licensed Product supplied by Licensor. Such Use is limited to the Capacity specified on this License and for Licensee's internal use only through the single application authorized by Licensor with the Licensed Product. Licensee may make an additional copy of any Licensed Product as necessary for archive or backup purposes only.

2.2 Any Licensed Product may be temporarily transferred for a reasonable period of time for Use on Licensee's backup System for purposes of disaster recovery and business continuity if the original System is inoperable for any reason.

2.3 Licensee shall not use, copy, or transfer any Licensed Product, or part thereof, to any other System, except as set forth in Sections 2.1 and 2.2, without the prior written approval of Licensor.

2.4 Licensee shall not cause or permit the reverse engineering, disassembly, decompilation, or any action for deriving a source code form, of the Licensed Product.

2.5 Licensee agrees and acknowledges that Licensed Products and any related intellectual property are the exclusive property of Licensor.

3. EFFECTIVE DATE

This License shall be effective as of the date of the shipment of the Licensed Product to the authorized party and shall remain in effect until terminated in accordance with Section 13.0.

4. USE

The Licensed Products shall not be used by third parties (except Users and third parties using the Licensed Products to perform work on behalf of the Licensee), or on behalf of third parties without the express written consent of Licensor. Furthermore, Licensee acknowledges and agrees that Licensor may impose, and Licensee shall pay, additional fees for Use of Licensed Products in a country other than the country specified as the installation address in the Licensor's quotation. To ensure Licensee's compliance with the terms of this Agreement, Licensor reserves the right to audit Licensee's use of the Licensed Products during normal business hours on reasonable notice and Licensee shall give Licensor such access that it may reasonably require to perform such audit.

5. PAYMENT

5.1 Licensee shall pay to Licensor the License Fee for each copy of any Licensed Product within thirty (30) days of invoice, or later if specified on the invoice, by Licensor.

Licensee, including any sales or use tax applicable to the transfer of media and/or data, if any, shall pay any tax due in connection with this License.

There shall be added to all charges hereunder:

i) All shipping, handling, travel and other out of pocket expenses incurred by Licensor in connection with this Agreement.

ii) Late payment charges shall be set at 1% interest per month. Licensee shall pay Licensor's reasonable attorney's fees and costs incurred by Licensor in collecting overdue amounts.

6. INSTALLATION SERVICES

For Products requiring installation by Licensor's personnel, it is the responsibility of the Licensee to prepare the site environmentally and provide the required services, power, network cabling, computers (those not provided by Licensor), etc. Unless otherwise specified in writing by Licensor, installation services do not include network installation, operating system installation or analog cabling installation.

For Products to be installed on existing computer systems at Licensee location, Licensee accepts that installation services on such computers can result in service disruption, data loss or injury to such equipment. Licensee also accepts that such problems may result following installation although such problems are unrelated hereto. Licensee agrees to hold Licensor harmless for such problems.

Licensee also agrees at the time of installation services, Licensee will provide necessary internal resources required for proper system installation. Such resources include, if applicable to the Products, but not limited to, network administrators, database administrators, and systems administrators. If such resources are not available to Licensor's personnel at the time of installation, Licensee agrees to hold Licensor harmless for network or database errors caused by Product installation.

Because Licensor's personnel may be required to enter upon Licensee's premises for the purpose of providing services to the Products sold hereunder, Licensee hereby undertakes to maintain its premises in a safe condition and to comply with all applicable laws, statutes and regulations governing workplace health and safety, and hereby accepts full responsibility for any harm, injury, or liability to Licensor's personnel while on Licensee's premises, except to the extent caused by the negligence of Licensor's personnel.

Licensor's sales and support personnel are not authorized to enter into any indemnity or hold harmless agreements on behalf of the Licensor. Licensor will not, in any event, indemnify, defend or hold Licensee harmless from any liability that it may incur to Licensor's sales and support personnel.

Licensor reserves the right to use third party installation personnel at Licensee's site at its sole discretion.

7. MAINTENANCE SERVICES

PERIOD

Unless otherwise noted, the initial Software Maintenance and Support (SMS) is for a 12 month period. This agreement shall commence on the start date confirmed by Licensor and shall remain in effect until the end date confirmed by Licensor.

CONDITIONS

a. Software Maintenance does not include assistance for Licensee's application requirements, non-Prodiance Corporation interfaces and Third Party applications, except those resold through Licensor and used exclusively for the Prodiance solution.

b. All Software Maintenance provided, including documentation and program materials, are subject to this Agreement.

- c. Licensee must be at current version or one version previous to the current version of the software in order to purchase a maintenance agreement.

STATEMENT OF WORK

a. Software Maintenance and Upgrades

Licensees current on Software Maintenance are entitled to all maintenance releases and software upgrades for Licensor developed applications. If Licensor, in its sole discretion, creates maintenance software releases and software upgrades, Licensor shall provide such maintenance releases and upgrades to the SMS Licensee's Technical Contact. Distribution of software maintenance releases or upgrades does not include installation or consulting services. Licensor will provide such maintenance releases and upgrades when Licensor makes them generally available in the marketplace.

Licensees current on SMS are entitled to receive Licensor-initiated electronic notices and alerts concerning their software.

b. Telephone and Web Support

STANDARD AGREEMENT: Licensor will provide technical assistance for up to five (5) designated contacts for the software via telephone to Licensee during its normal working hours (8:00 a.m.-5:00 p.m. Eastern Standard Time M-F) during the period of this agreement. Telephone and WebEx Support will be limited to the normal operation of the Software in accordance to its written documentation and specifications provided by Licensor. Licensees current on SMS are given priority handling of technical support calls.

PREMIUM AGREEMENT: Licensor will provide technical assistance for the software via telephone to Licensee 24 hours a day, seven days a week during the period of this SMS. Telephone Support will be limited to the normal operation of the Software in accordance to its written documentation and specifications provided by Licensor. Average response time, as defined as a returned phone call, will be within two hours of receipt of call.

Licensor will provide technical assistance for the software to SMS Licensees via the technical support center located on the Licensor Internet web site. Licensee will be provided with user-id and password to enter and browse site. Web site provides SMA Licensees with access to all hotfixes issued for all software versions, access to Licensor knowledge base for advanced troubleshooting, call tracking to trace progress of any entered support calls, and software downloads.

OEM or Resale Products

- a. Licensor will provide support services for Third Party Applications resold through Licensor under the same conditions as the Licensor products.

FORCE MAJEURE

Licensor will not be liable for any failure to perform due to unforeseen circumstances or causes beyond Licensor's reasonable control, including, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, delay in delivery by Licensor's vendors, fire, flood, accident, strikes, inability to secure transportation, facilities, fuel, energy, labor or materials. In the event of force majeure, Licensor's time for delivery or other performance will be extended for a period equal to the duration of the delay caused thereby.

8. PROPERTY RIGHTS AND CONFIDENTIALITY

United States copyright laws and international treaties protect the Licensed Product. Licensee acknowledges and understands that nothing contained in this License shall be construed as conveying title in any Licensed Product to the Licensee.

Licensee shall limit Use of and access to the Licensed Products to Users.

Licensee shall not alter or remove any copyright, trade secret, patent, trademark, proprietary and/or other legal notices contained on or in copies of the Licensed Products. If Licensee is permitted by Licensor to make any copies of any Licensed Products, Licensor shall reproduce all such notices on or in all copies. The existence of any copyright notice shall not constitute publication and shall not be construed as an admission or presumption of publication of any Licensed Product.

Licensor agrees to hold each Licensed Product in confidence and shall not disclose any Licensed Product or part thereof, without the prior written approval of Licensor, except to its employees, agents and contractors to whom disclosure is necessary for Use, provided that each such employee, agent or contractor is bound to maintain the Licensed Product in confidence. Licensee's obligation hereunder shall not apply to any Licensed Product, or part thereof, which (a) was known by Licensee prior to disclosure, or otherwise becomes publicly available, prior to the signing of this License; (b) is received by Licensee from a third party without any accompanying restrictions or breach of this License; or (c) is independently developed by Licensee.

Licensor shall take all reasonable steps to safeguard the Licensed Products and to ensure that no persons authorized to have access to the Licensed Products shall take any action in violation of this Agreement.

9. EXPORT

Regardless of any representation by Licensee of an ultimate destination of any Licensed Product, Licensee shall not export, either directly or indirectly, any Licensed Product without obtaining an export license from the United States Government.

10. WARRANTY

Licensor warrants that for ninety (90) days from the date Licensee receives the Licensed Product, the initial copy of any Licensed Product supplied by Licensor shall perform substantially in accordance with the standards set forth in the Program Documentation related to each Licensed Product.

The above warranty does not extend and shall not apply to any Licensed Product to the extent that any breach of warranty is caused by the Licensed Product being: (a) not used in accordance with any Program Documentation supplied hereunder; (b) used in combination with any program material not licensed herein; or (c) modified by Licensee;

Licensor's and its Licensor's entire liability and Licensee's exclusive remedy for any breach by Licensor of the warranty given in this Section 9 shall be, at Licensor's sole discretion, either to repair or replace the Licensed Product(s) in accordance with Section 10 below.

Licensor MAKES NO WARRANTIES THAT ERRORS HAVE BEEN COMPLETELY ELIMINATED FROM ANY LICENSED PRODUCT. Licensor or its suppliers MAKE NO OTHER WARRANTIES, expressed or implied, INCLUDING BUT NOT LIMITED TO FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY WITH RESPECT TO ANY LICENSED PRODUCT.

11. INDEMNIFICATION

Licensor agrees to defend, indemnify and hold Licensee harmless from any and all third party claims for damages, finally awarded, due to patent or copyright infringement or due to misappropriation of intellectual property rights, asserted against Licensee by virtue of Licensee's Use of the Licensed Product, provided that Licensor is given prompt notice of any such claim and the right to control and direct the defense of each such claim, and further provided that Licensee shall fully cooperate with Licensor in such defense, and further provided that Licensor shall have the right, at its own option and expense, to obtain the right for Licensee to continue to Use the Licensed Product, replace or modify the Licensed Product so that it becomes non-infringing, or remove such Licensed Product and refund the a portion of the License Fee paid by Licensee based on the number of months remaining out of an assumed useful life of five (5) years. The foregoing states the entire liability of Licensor and Licensee's exclusive remedy with respect to infringement of patents, copyrights or misappropriation of industrial property rights by Use of the Licensed Product or any parts thereof; such obligations to defend and make payment shall specifically not apply to claims where the infringement or misappropriation is caused by any of the following:

Use not in accordance with any Program Documentation supplied hereunder;

Use in combination with program material not licensed herein.

Modification of the Licensed Product by anyone other than the Licensor. Use of the Licensed Product in combination with equipment or software not supplied hereunder where the Licensed Product would not itself be infringing;

Use of the Licensed Product in an application or environment for which it was not designed or not contemplated under this Agreement;

Use of other than a current non-infringing release of the Licensed Product(s) provided to Licensee by Licensor.

12. LIMITATION OF LIABILITY

Except for indemnity payments under Section 11, the total liability of either party or its suppliers for any claim or damage arising out of the Use of any Licensed Product or in connection with any breach of this License shall be

limited to direct damages and shall not exceed the License Fees which have been paid by Licensee to Licensor for Use of the Licensed Software which is the subject of such claim or damage.

The limitations and exclusions set forth in this Section 11 shall not apply to any claim in respect of death or personal injury if contrary to any applicable law. Licensor agrees to indemnify and save Licensee harmless from any and all claims, lawsuits, judgments, orders, decrees, awards, costs, and expenses, including attorney's fees resulting from property damage or personal injury, including death, which may be caused or sustained by Licensor's employees, agents or subcontractors during the performance of the services under this Agreement, whether or not they are on Licensee's premises, except as caused by Licensee's negligence or more culpable conduct.

LICENSEE SHALL BE RESPONSIBLE FOR BACKING UP THE SOFTWARE APPLICATIONS AND ANY STORED DATA. LICENSEE SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY LOSS, CORRUPTION, OR DAMAGE, HOWSOEVER OCCURRING, TO SUCH SOFTWARE APPLICATIONS OR STORED DATA.

IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING LOST PROFITS OR LOST SAVINGS, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ANY CLAIM BY ANY THIRD PARTY.

13. TERMINATION

If Licensee fails to comply with any term or condition of this License, Licensor may notify Licensee in writing of such failure. If Licensee fails to cure such failure within thirty (30) days of such written notice, Licensor may terminate this License.

Licensee may terminate this License at will on thirty (30) days prior written notice to Licensor.

Licensor shall have the right to terminate this License if Licensee is the subject in the petition in insolvency, bankruptcy, or receivership.

Within ten (10) days after any termination, Licensee shall certify in writing to Licensor that all copies, in whole or in part, in any form, of any Licensed Product have been destroyed or returned to Licensor.

The rights and obligations of the parties pursuant to Sections 6, 8, 9 and 10 shall survive and continue after any termination of this License.

Upon termination of this Agreement, Licensee shall forthwith pay all sums owed to Licensor by Licensee and return the Licensed Products and Documentation or shall certify in writing by Licensee that all copies have been destroyed and/or deleted from Licensee's computer memory, disks, libraries, or other media and data storage facilities and are no longer in possession of copy of Licensed program. Licensee also shall certify that Licensee has provided no other party copy(s) of Licensed Product.

14. MISCELLANEOUS

Governing Law This Agreement may be governed by and construed in accordance with the laws of the State of California without reference to conflict of laws principles (and specifically excluding the U.N. Convention for the International Sale of Goods).

Notices All notices shall be in writing and sent by overnight courier or registered or certified mail, return receipt requested to the addresses shown on page one, or to such revised addresses as either party may provide to the other party in writing. The effective date shall be the date notice is received by the receiving party.

Assignment Neither party may assign any rights hereunder without the prior written approval of the other party, and any attempt to assign any rights, duties, or obligations hereunder without the other party's written consent will be void. Notwithstanding the foregoing, either party may assign its rights, duties or obligations under this Agreement as a result of a change in control (whether by merger, stock transfer or otherwise), a sale of substantially all of its assets or an assignment to any of its affiliates without obtaining the prior written consent of the other party.

Enforceability Should any provision of this License be held by a court of law or equity to be illegal, invalid or unenforceable, the remaining provisions of the License shall not be affected or impaired thereby.

Waiver The failure of any party to enforce any term or condition of this License shall not constitute a waiver of the party's right to enforce any term or condition of this License, unless waived in writing.

Entire Agreement This Agreement (including any schedules hereto) is the complete and exclusive statement of the contract between Licensor and

Licensee with respect to the subject matter hereof. No waiver, consent, modification, amendment or change of the terms of this Agreement shall be binding unless in writing and signed by Licensor and Licensee.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed as of the Effective Date by the undersigned duly authorized representative.

PRODIANCE CORPORATION

BY: [Signature]
Name: Sohail Qadad
Title: CEO
Phone/Facsimile: 925-543-0054
Email: sq@Prodiance.com

LICENSEE

BY: [Signature]
Name: Warren Hake
Title: Principal
Phone/Facsimile: 215-246-4859
Email: Warren.Hake@TransPerim.com

END OF AGREEMENT

PRODIANCE

Advanced Productivity Products Corporation

**Quotation**

5000 Executive Parkway
Suite 270
San Ramon, CA 94583
Phone: 1-917-270-8082
Fax: 1-925-543-0050
Sales Manager: James H Cooper

Quotation Number: JC 11272007 - 01
Contact: Jon Wells
Company Towers Perrin
Date: November 27, 2007
Tel: 215.248.4703

Quantity	Order Nr.	Description	Unit Price	Extended Price
Package Pricing				
Enterprise	002525-010	Enterprise Edition Server (SharePoint): Includes the core functionality of Prodiance Spreadsheet Compliance Manager and integration with SharePoint Portal Server 2007, including: Cell-by-Cell Audit Trail (Formula, Content, Macro's), Range Auditing, Configurable Email Alerts (e.g. value exceeds limit), Key Item Reports, Link Dependencies, Workbook / Sheet Comparison Report, Cell Protection, File Versioning, Access Controls, Segregation of Roles & Responsibilities, File Level Audit Trail, System Level Audit Trail, Configurable User Roles (Approver, Contributor, Reader, etc.), Automatic Email Notification/Subscription, Records Retention with Litigation Hold, Collaborative Web Portal, SharePoint Workflow for automation of key business/approval processes, InfoPath Forms Services and Excel Services.	\$30,000	\$30,000
Enterprise	002525-020	Enterprise Edition Client (SharePoint): Includes the core functionality of Prodiance Spreadsheet Compliance Manager and SharePoint client components and user access to servers.	\$110,000	\$110,000
1	002030-010	Spreadsheet IQ (package of 10 licenses): Includes a variety of reporting and analytic capabilities from within the spreadsheet and across the server components.	\$5,000	\$5,000
Package Subtotal				\$145,000
Component Pricing				
1	002055-010	Migration Manager: Desktop utility designed to move linked spreadsheets from one location to another without breaking the file links. May be used by any number of users with current client licenses.	\$5,000	\$5,000
Server Subtotal				\$5,000
Training & On-site Services				
10	002274-020	ECM Professional Services: One day of consulting services, or installation of pre-configured hardware by qualified Prodiance personnel. Note: One day is required for installation of each server. Excludes the cost of travel related expenses for Prodiance during visit.	\$1,800	\$18,000
2	002270-010	ECM System Administrator Training: One day of system administrator training for up to 5 students to be performed by qualified Prodiance personnel on-site. Excludes the cost of travel related expenses for Prodiance during visit.	\$2,500	\$5,000
2	002043-020	ECM Train-the-Trainer Training: This course prepares customer personnel to be able to conduct end-user training within their organization. It includes necessary course materials (presentations, manuals, etc.) and one day of training for up to 5 students. All course materials will be provided in electronic format by Prodiance and can be reproduced by the customer for distribution to their end-users. Excludes the cost of travel related expenses for Prodiance during the visit.	\$2,500	\$5,000
Training & On-site Services Subtotal				\$28,000

Software Maintenance Agreement				
1	002254-050	<i>Initial</i> One-Year Software Maintenance Agreement; Includes unlimited phone and/or WebEx support between 8 am-8 pm EST Mon-Fri. Necessary on-site visits by qualified Prodiance personnel are not included but are available at an additional fee. The SMA contract is valid for one year.		\$27,000
Maintenance Subtotal				\$27,000
Software Total				\$150,000
Services Total				\$28,000
Annual SMA				\$27,000
Grand Total				<u>\$205,000</u>
**Prices do not include applicable state and local taxes or Shipping and Handling charges. Payment in US Dollars only. Please Note: All relevant tax information, including tax status must be clearly stated on your purchase order. If your company is tax exempt or directly pays to the state, please provide a current copy of your tax exemption or direct pay certificate at the time of purchase. We appreciate your cooperation, as we will not be able to process your order without this information.				
When placing purchase order, please reference Quote #:				<u>JC 11272007 - 01</u>
It is understood that Towers Perrin is to provide the SharePoint Licenses for all users. Please include the following information on your Purchase Order to ensure accurate invoicing: Purchase Order Number, Billing Address, Shipping Address, Billing Contact (with email and phone), Shipping Contact (with email and phone) and current Tax Status. (If Exempt, an exempt certificate or direct pay documentation needs to accompany the Purchase Order). Line items separated by product class (license, services, maintenance, escrow) with Prodiance part number. Also please include information if services incrementally billable (Open PO). This quotation is based on our best estimate of your organization's needs. If there has not been a site survey performed by Prodiance Corporation prior to this quotation being generated, this should be considered a budgetary quote. Quote is entered into pursuant to and subject to the terms of the Software License and Services Agreement between the parties. Please supply a copy of resale or tax exemption certificate if applicable. Non-compliance may result in a delay in shipment.				
Quote valid for 30 days past the issue date				

EXHIBIT B

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Federal number, and address): Pillsbury Winthrop Shaw Pittman LLP Vernon H. Granneman (SBN 083532) 2475 Hanvoer Street Palo Alto, CA 94304 TELEPHONE NO.: (650) 233-4500 FAX NO.: (650) 233-4545 ATTORNEY FOR (Name): Prodiance Corporation		<div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div style="font-size: 1.2em; margin-bottom: 10px;">2008 MAY -6 IP 2:12</div> <div style="font-size: 0.8em;">K. TORRE, CLERK OF THE SUPERIOR COURT COUNTY OF CONTRA COSTA, CALIF.</div> <div style="font-size: 0.8em;">BY: <u>J. Myovich</u></div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Contra Costa STREET ADDRESS: 725 COURT ST. MAILING ADDRESS: CITY AND ZIP CODE: MARTINEZ, CA 94553 BRANCH NAME:		
CASE NAME: Prodiance Corporation v. Tower, Perrin, Forster & Crosby, Inc.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

By Fax

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/PI/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort: <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/PI/D/W/D (23) Non-P/PI/D/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/PI/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): Two (2)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 6, 2008

Vernon H. Granneman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT - MARTIN
COUNTY OF CONTRA COSTA
MARTINEZ, CA, 94553

PRODIANCE CORP VS TOWERS, PERRIN, FORSTER & CROSBY

NOTICE OF CASE MANAGEMENT CONFERENCE

CIVMSC08-01214

1. NOTICE: THE CASE MANAGEMENT CONFERENCE HAS BEEN SCHEDULED FOR:

DATE: 10/07/08 DEPT: 07 TIME: 8:30

THIS FORM, A COPY OF THE NOTICE TO PLAINTIFFS, THE ADR INFORMATION SHEET, A BLANK CASE MANAGEMENT CONFERENCE QUESTIONNAIRE, AND A BLANK STIPULATION FORM ARE TO BE SERVED ON OPPOSING PARTIES. ALL PARTIES SERVED WITH SUMMONS AND COMPLAINT/CROSS-COMPLAINT OR THEIR ATTORNEY OF RECORD MUST APPEAR.

2. You may stipulate to an earlier Case Management Conference. If all parties agree to an early Case Management Conference, please contact the Court Clerk's Office at (925)957-5794 for Unlimited Civil cases and (925)957-5791 for Limited Civil cases for assignment of an earlier date.

3. You must be familiar with the case and be fully prepared to participate effectively in the Case Management Conference and to discuss the suitability of this case for the EASE Program, private mediation, binding or non-binding arbitration, and/or use of a Special Master.

4. At any Case Management Conference the court may make pretrial orders including the following:

- a. an order establishing a discovery schedule
- b. an order referring the case to arbitration
- c. an order transferring the case to limited jurisdiction
- d. an order dismissing fictitious defendants
- e. an order scheduling exchange of expert witness information
- f. an order setting subsequent conference and the trial date
- g. an order consolidating cases
- h. an order severing trial of cross-complaints or bifurcating issues
- i. an order determining when demurrers and motions will be filed

SANCTIONS

If you do not file the Case Management Conference Questionnaire or attend the Case Management Conference or participate effectively in the Conference, the court may impose sanctions (including dismissal of the case and payment of money).

Clerk of the Superior Court of Contra Costa County
I declare under penalty of perjury that I am not a party to this action, and that I delivered or mailed a copy of this notice to the person representing the plaintiff/cross-complainant.

Dated: 05/06/08

J. MYOVICH, Deputy Clerk

Superior Court of California, County of Contra Costa

NOTICE TO PLAINTIFFS
In Unlimited Jurisdiction Civil Actions

AFTER YOU FILE YOUR COURT CASE:

1. Have the forms the clerk gives you served on all defendants in this case:
 - a. The Complaint
 - b. The Summons
 - c. The Notice of Case Management Conference (shows hearing date and time)
 - d. The Notice to Defendants (Local Court Form CV-655d)
 - e. Blank: Case Management Statement (Judicial Council Form CM-110)
 - f. Blank: Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days (Local Court Form CV-655b)
 - g. Alternative Dispute Resolution (ADR) Information (Local Court Form CV-655c)
2. Within 60 days of the date you filed the complaint you must prove that the forms have been served on (delivered to) the defendants correctly by filing the Proof of Service form (POS-010) (completed by the person who did the service) with the court.
3. Go to the case management conference on the date indicated on The Notice of Case Management Conference.
4. Consider using mediation, arbitration, or neutral case evaluation (ADR) to resolve the dispute. All parties must answer questions about ADR on the *Case Management Statement* form. For more information, see the enclosed ADR information, visit www.cc-courts.org/adr, or call (925) 957-5787.
5. You may delay the first case management conference while you try to resolve the dispute in ADR. If all parties agree to use ADR, complete and file the Stipulation and Order to Attend ADR and Continue First Case Management Conference 90 Days form to tell the court you want to use this option.

All civil actions (except juvenile, probate, family, unlawful detainer, extraordinary writ, and asset forfeiture¹) and personal injury cases where a party is claiming damages² must meet the Civil Trial Delay Reduction time limits for filing documents and moving their cases forward. These time limits are listed in California Rule of Court 3.110 and Local Court Rule 5. If parties miss these deadlines, a judge might issue an order (*Order to Show Cause*) for them to explain in court why they should not have to pay a fine or have their case dismissed.

VIEW LOCAL COURT RULES AT: (WWW.CC-COURTS.ORG/RULES)

¹ *Health and Safety Code §11470 et seq.*

² *Including claims for emotional distress and/or wrongful death.*

Superior Court of California, County of Contra Costa

NOTICE TO DEFENDANTS
In Unlimited Jurisdiction Civil Actions

YOU ARE BEING SUED. The packet you have been served should contain:

- a. The Summons
- b. The Complaint
- c. The Notice of Case Management (shows hearing date and time)
- d. Blank: Case Management Statement (Judicial Council Form CM-110)
- e. Blank: Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days (Local Court Form CV-655b)
- f. Alternative Dispute Resolution (ADR) Information (Local Court Form CV-655c)

WHAT DO I DO NOW?

You must:

1. **Prepare your response** YOU COULD LOSE YOUR CASE—even before it is heard by a judge or before you can defend yourself, if you do not prepare and file a response on time. See the other side of this page for types of responses you can prepare.
2. **Complete the Case Management Statement (CM-110)**
3. **File and serve your court papers on time** Once your court forms are complete, you must file 1 original and 2 copies of the forms at court. An adult who is NOT involved in your case must serve one set of forms on the Plaintiff. If you were served in person you must file your response in 30 days. If the server left a copy of the papers with an adult living at your home or an adult in charge at your work or you received a copy by mail you must file your response in 40 days.
4. **Prove you served your court papers on time** by having your server complete a *Proof of Service*, (Judicial Council form POS-040), that must be filed at the court within 60 days.
5. **Go to court on the date and time given in the Notice of Case Management Conference.**
6. **Consider trying to settle your case before trial** If you and the other party to the case can agree to use mediation, arbitration or neutral case evaluation, the Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days can be filed with your other papers. For more information read the enclosed ADR information, visit www.cc-courts.org/adr, or call (925) 957-5787.

IMPORTANT! The court recommends consulting an attorney for all or part of your case. While you may represent yourself, lawsuits can be complicated, and the court cannot give you legal advice.

COURT FEES: You must pay court fees the first time you file your papers. If you also file a motion, you must pay another fee. If you cannot afford the fees, you may ask the court to waive (allow you not to pay) fees. Use Judicial Council forms FW-001-INFO [information sheet]; FW-001 [application]; and FW-003 [order].

COURT FORMS: Buy forms at the Forms Window in the Family Law Building or download them for free at:
www.courtinfo.ca.gov/forms/

WHAT KIND OF RESPONSES CAN I FILE?

1. If you disagree with some or all of what the plaintiff says in the complaint because you believe, or know it is not true, you can file an ANSWER.
2. If you have a claim in the same case against the plaintiff, you may file a CROSS-COMPLAINT.
3. If you want to ask the court to do something on your behalf, you may file a MOTION (See TYPES OF MOTIONS below)

HOW DO I PREPARE AN ANSWER?

There are two kinds of Answers you can use, depending on whether the Complaint was verified. You can tell if a Complaint is verified because it says "Verified Complaint" and/or has a signed oath on the last page.

For complaints that are NOT verified:

Use Judicial Council form PLD-050 – General Denial

For complaints that ARE verified:

- a. For personal injury, property damage, and wrongful death claims, use Judicial Council PLD-PI-003 (do not check number 2).
- b. For contract claims, use Judicial Council PLD-C-010 (do not check number 3a).
- c. Be sure to deny every claim with which you disagree. For example, you might write: "I believe, or know, that the information in paragraph #__ is untrue/incorrect." Continue your list until you have addressed each paragraph in the Complaint.

NOTE: The Judicial Council Answer forms have spaces for your affirmative defenses. Be sure to include them or you may not be able to use them later. To find out what your affirmative defenses might be, go to the law library and ask the librarian to help you find the information you need.

If you want to file a Cross-Complaint, you must do so at the same time you file the Answer.

- a. For a personal injury, property damage, and/or wrongful death Cross-Complaint, use Judicial Council form PLD-PI-002.
- b. For a contract Cross-Complaint, use Judicial Council PLD-C-001.

TYPES OF MOTIONS

Written motions are documents that ask the court to do something. You may have to file an *Answer* at the same time. At this point in the case, you can only make Motions from the following list:

1. Demurrer (the facts stated in the complaint are wrong, or the deadline to file the lawsuit has passed);
2. Motion to Strike (the complaint is unclear; does not follow the law, "doesn't matter", etc.);
3. Motion to Transfer (the complaint is in the wrong court or there's a more appropriate court);
4. Motion to Quash Service of Summons (you were not legally served);
5. Motion to Stay (put the case on hold); or
6. Motion to Dismiss (stops the case).

NOTE: Motions are very complicated and you may want to hire a lawyer to help you.

WHERE CAN I GET MORE HELP?

- Lawyer Referral Service: (925) 825-5700
- Bay Area Legal Aid: (800) 551-5554
- Contra Costa County Law Library Martinez: (925) 648-2783 Richmond: (510) 374-3019
- Ask the Law Librarian: www.247ref.org/portal/access_law3.cfm

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

Plaintiff(s)

vs.

Defendant(s)

**Stipulation and Order to Attend ADR and Delay
First Case Management Conference 90 Days**

Case No.: _____ Date complaint filed: _____ First case management conference set for: _____

- ▶ **ALL PARTIES MUST SIGN THIS FORM AND FILE THIS STIPULATION, WITH CASE MANAGEMENT STATEMENTS, AT LEAST 15 DAYS BEFORE THE FIRST CASE MANAGEMENT CONFERENCE**
- ▶ **PARTIES MUST ALSO SEND A COPY OF THE FORM WITH THE JUDGE'S SIGNATURE TO THE ADR OFFICE:
FAX: (925) 957-5689 or MAIL: P.O. BOX 911, MARTINEZ, CA 94553**
- ▶ **THIS STIPULATION MAY NOT BE USED IN COMPLEX LITIGATION CASES**

Counsel and all parties certify they have met and conferred on the subjects set forth in Rule of Court 212(b), and have selected the following alternative dispute resolution (ADR) process: [check ☒ one]:

- ☐ Judicial mediation ☐ Judicial arbitration ☐ Neutral case evaluation
☐ Private mediation ☐ Private arbitration

COUNSEL AND ALL PARTIES AGREE TO COMPLETE ADR WITHIN 90 DAYS, AND CERTIFY:

1. This is not a complex civil case (as described in California Rules of Court, Rule 3.400);
2. All parties have been served and intend to submit to the jurisdiction of the court;
3. All parties have agreed to a specific plan for sufficient discovery to make the ADR process meaningful;
4. Defendant(s)' first appearance fee has been paid or will be submitted with this Stipulation;
5. Copies of this Stipulation and self-addressed stamped envelopes are provided for returning file-stamped copies to counsel and the parties;
6. Case Management Conference Statements are submitted with this Stipulation;
7. All parties will attend ADR conferences as required by local court rule (Appendix C); and,
8. All parties know the court will not allow more than 90 days to complete ADR.

Counsel for Plaintiff (print)

Fax

Signature

Counsel for Plaintiff (print)

Fax

Signature

Counsel for Defendant (print)

Fax

Signature

Counsel for Defendant (print)

Fax

Signature

Pursuant to the Stipulation of the parties, and subject to the Case Management Order to be filed, IT IS SO ORDERED that the Case Management Conference set for _____ is vacated and rescheduled for _____ at (8:30 a.m. / _____) Plaintiff's counsel must notify all parties of the case management conference.

Dated: _____

Judge of the Superior Court

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		CASE NUMBER:
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: Time: Dept.: Div.: Room: Address of court (if different from the address above):		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- Party or parties (answer one):
 - ☐ This statement is submitted by party (name):
 - ☐ This statement is submitted jointly by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - The complaint was filed on (date):
 - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)
 - ☐ All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - ☐ The following parties named in the complaint or cross-complaint
 - ☐ have not been served (specify names and explain why not):
 - ☐ have been served but have not appeared and have not been dismissed (specify names):
 - ☐ have had a default entered against them (specify names):
 - ☐ The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
- Description of case
 - Type of case in ☐ complaint ☐ cross-complaint (describe, including causes of action):

Page 1 of 4

CASE MANAGEMENT STATEMENT

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date (indicate source and amount), estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☐ a jury trial ☐ a nonjury trial (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

a. ☐ The trial has been set for (date):

b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

a. ☐ days (specify number):

b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)

a. Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.

b. ☐ All parties have agreed to a form of ADR. ADR will be completed by (date):

c. ☐ The case has gone to an ADR process (indicate status):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. d. The party or parties are willing to participate in (check all that apply):

- (1) ☐ Mediation
 (2) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
 (3) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
 (4) ☐ Binding judicial arbitration
 (5) ☐ Binding private arbitration
 (6) ☐ Neutral case evaluation
 (7) ☐ Other (specify):

- e. ☐ This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
 f. ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
 g. ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

11. Settlement conference

- ☐ The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
 b. Reservation of rights: ☐ Yes ☐ No
 c. ☐ Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- ☐ Bankruptcy ☐ Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.

- (1) Name of case:
 (2) Name of court:
 (3) Case number:
 (4) Status:

☐ Additional cases are described in Attachment 14a.

- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

15. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

- ☐ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

- c. ☐ The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

Previous case management orders in this case are (*check one*): ☐ none ☐ attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached



CONTRA COSTA COUNTY SUPERIOR COURT ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

All Judges in the Civil Trial Delay Reduction Program agree that parties should consider using Alternative Dispute Resolution (ADR) to settle their cases. To tell the court you will use ADR:

- Choose ADR on the *Case Management Form* (CM-110);
- File a *Stipulation and Order to Attend ADR and Continue First Case Management Conference 90-Days* (local court form); or
- Agree to ADR at your first court appearance.

Questions? Call (925) 957-5787, or go to www.cc-courts.org/adr

MEDIATION

Mediation is often faster and less expensive than going to trial. Mediators help people who have a dispute talk about ways they can settle their case. Parties call or visit the ADR Programs office to get a list of mediators. After parties have agreed on a mediator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the mediator at least 5 court days before mediation starts.

ALL parties and attorneys must go to mediation. Mediation can be held whenever and wherever the parties and the mediator want, as long as they finish before the court deadline. In some kinds of court cases, parties have the chance to mediate in the courthouse on their trial day.

Most mediators begin by talking with the parties together, helping them focus on the important issues. The mediator may also meet with each party alone. Mediators often ask parties for their ideas about how to settle the case. Some mediators tell the parties how much money they think a case is worth, or tell them what they think might happen if the case went to trial. Other mediators help the parties decide these things for themselves. No matter what approach a mediator takes, decisions about settling a case can only be made when all the parties agree.

If the parties go through the court ADR program, mediators do not charge fees for the first half hour spent scheduling or preparing for mediation. They also do not charge fees for the first two hours of mediation. If parties need more time, they must pay that person's regular fees. Some mediators ask for a deposit before mediation starts. Mediators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the mediation. A party whose court fees have been waived (cancelled) may ask if their mediation fees or deposit can be waived.

If parties agree about how they will settle their case, they can choose to keep it private, write it up as a contract, or ask the judge to make it a court order. What parties say and agree to in mediation is confidential (private).

PRIVATE MEDIATION

Private mediation works in the same way as judicial mediation, but the parties do not go through the ADR Programs office. Parties choose a mediator on their own, and pay the mediator's normal fees.

JUDICIAL ARBITRATION (non-binding)

In judicial arbitration, an independent attorney (arbitrator) looks at the evidence, listens to the parties and their witnesses, and decides how the case will be settled. Judicial arbitration is less formal than court. Parties call or visit the ADR Programs office to get a list of arbitrators. If they cannot agree on an arbitrator, the court will assign one. The judge can send cases to arbitration if there is less than \$50,000 in dispute. The person who started the court case can make sure the case goes to arbitration if they agree to limit the amount they are asking for to \$50,000. Parties can also agree they want to use judicial arbitration. The arbitrator must send their decision (award) to the court within 10 days of the last hearing. The award becomes a court judgment unless a party asks the court to review the case within 30 days. Parties must use the ADR 102 form to ask for a new court hearing (called a trial de novo.) Judicial arbitrators charge \$150 per case or per day.

PRIVATE ARBITRATION (non-binding and binding)

Private, non-binding arbitration is the same as judicial arbitration, except that the parties do not go through the ADR Programs office to choose an arbitrator, and the arbitrator's award will not become a judgment of the court unless all parties agree. Parties must pay the arbitrator's normal fees.

Binding arbitration is different from judicial or private non-binding arbitration because the arbitrator's decision is final. Parties give up their right to have a judge review their case later (except for reasons listed in California Code of Civil Procedure, Section 1286.2.) Binding arbitration rules are listed in California Code of Civil Procedure, Sections 1280-1288.8. Parties may also agree any time before the judge has made a decision that ends the case to switch to binding arbitration. Parties choose the arbitrator on their own, and must pay the arbitrator's normal (not \$150) fees.

SETTLEMENT MENTOR CONFERENCE

Settlement mentors are independent, experienced trial attorneys that a judge has assigned to help parties look for ways to settle their case. The conference is free and is held in the courthouse. It is often held on the morning of trial, but it can be scheduled anytime. These conferences usually last two or three hours. Parties do not present evidence and do not call witnesses. Parties can ask the settlement mentor to keep some information confidential (private) from the other party, but not from the judge. The settlement mentor can share any information with the judge, or involve the judge in settlement discussions. All principals, clients, and claims representatives must attend the settlement mentor conference.

NEUTRAL CASE EVALUATION

In neutral case evaluation, an independent attorney (evaluator) reviews documents and listens to each party's side of the case. The evaluator then tells the parties what they think could happen if the case went to trial. Many people use the evaluator's opinion to reach an agreement on their own, or use this information later in mediation or arbitration to settle their case.

Parties call or visit the ADR Programs office to get a list of evaluators. After parties have agreed on an evaluator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the evaluator at least 5 court days before evaluation starts. ALL parties and their attorneys must go to neutral case evaluation. The evaluation can be held whenever and wherever the parties and the evaluator want, as long as they finish before the court deadline. If the parties go through the court's ADR program, evaluators do not charge any fees for the first half hour spent scheduling or preparing for the evaluation conference. They also do not charge fees for the first two hours of the evaluation. If parties need more time, they must pay that person's regular fees. Some evaluators ask for a deposit before evaluation starts. Evaluators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the evaluation. A party whose court fees have been waived (cancelled) may ask if their evaluation fees or deposit can be waived.

TEMPORARY JUDGE

Some parties want a trial, but want to choose who will decide the case and when the trial will take place. Parties can agree on an attorney that they want the court to appoint as a temporary judge for their case. (See Article 6, Section 21 of the State Constitution and Rule 2.830 of the California Rules of Court.) Temporary judges have nearly the same authority as a superior court judge to conduct a trial and make decisions. As long as the parties meet the court deadline, they can schedule the trial at their own and the temporary judge's convenience.

Each of the temporary judges on the court's panel has agreed to serve at no charge for up to 5 court days. If the parties need more time, they must pay that person's regular fees. All parties and their lawyers must attend the trial, and provide a copy of all briefs or other court documents to the temporary judge at least two weeks before the trial. These trials are similar to other civil trials, but are usually held outside the court. The temporary judge's decision can be appealed to the superior court. There is no option for a jury trial. The parties must provide their own court reporter.

SPECIAL MASTER

A special master is a private lawyer, retired judge, or other expert appointed by the court to help make day-to-day decisions in a court case. The special master's role can vary, but often includes making decisions that help the discovery (information exchange) process go more smoothly. He or she can make decisions about the facts in the case. Special masters can be especially helpful in complex cases. The trial judge defines what the special master can and cannot do in a court order.

Special masters often issue both interim recommendations and a final report to the parties and the court. If a party objects to what the special master decides or reports to the court, that party can ask the judge to review the matter. In general, the parties choose (by stipulation) whom they want the court to appoint as the special master, but there are times (see California Code of Civil Procedure Section 639), when the court may appoint a special master or referee without the parties' agreement. The parties are responsible to pay the special master's regular fees.

COMMUNITY MEDIATION SERVICES

Mediation Services are available through non-profit community organizations. These low-cost services are provided by trained volunteer mediators. For more information about these programs contact the ADR Program at (925) 957-5787

JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS Prodiance Corporation, a Delaware corporation	DEFENDANTS Towers, Perrin, Forster & Crosby, Inc., a Pennsylvania corporation
(b) County of Residence of First Listed Plaintiff Contra Costa (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Pillsbury, Winthrop, Shaw Pittman LLP Vernon H. Granneman 2475 Hanover Street Palo Alto, California 94304 (650) 233-4500 Fax (650) 233-4545	Attorneys (If Known) Jeffer, Mangels, Butler & Marmaro LLP Robert E. Mangels Matthew S. Kenefick Two Embarcadero Center, Fifth Floor, San Francisco, California 94111 (415) 398-8080 Fax (415) 398-5584

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																				
<table style="width: 100%;"> <tr> <td><input type="checkbox"/> 1 U.S. Government Plaintiff</td> <td><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</td> </tr> <tr> <td><input type="checkbox"/> 2 U.S. Government Defendant</td> <td><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</td> </tr> </table>	<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> </tr> <tr> <td>Citizen of This State <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1</td> <td><input checked="" type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td>Foreign Nation <input type="checkbox"/> 3</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)															
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Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 206 Franchise </td> <td> <table style="width: 100%;"> <tr> <th style="text-align: left;">PERSONAL INJURY</th> <th style="text-align: left;">PERSONAL INJURY</th> </tr> <tr> <td> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table> </td> </tr> </table>	CONTRACT	TORTS	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. 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Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. 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V. ORIGIN (Place an "X" in One Box Only)	Transferred from Appeal to District
<input type="checkbox"/> 1. Original Proceeding <input checked="" type="checkbox"/> 2. Removed from State Court <input type="checkbox"/> 3. Remanded from Appellate Court <input type="checkbox"/> 4. Reinstated or Reopened <input type="checkbox"/> 5. another district (specify) <input type="checkbox"/> 6. Multidistrict Litigation <input type="checkbox"/> 7. Judge from Magistrate Judgment	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. section 1332 - Diversity Jurisdiction Brief description of cause: Breach of Contract
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ 205,000	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".
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IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)	<input checked="" type="checkbox"/> SAN FRANCISCO/OAKLAND <input type="checkbox"/> SAN JOSE
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DATE
June 5, 2008

SIGNATURE OF ATTORNEY OF RECORD

PTJ
E-filing

ADR

008-0834 PTH

Court Name: U.S. District Court, NDCA
Division: 3
Receipt Number: 34611019948
Cashier ID: almaceh
Transaction Date: 06/05/2008
Payer Name: jeffer mangels butler and

CIVIL FILING FEE
For: TOWERS PERRIN
Case/Party: D-CAN-3-08-CV-002824-001
Amount: \$350.00

CHECK
Check/Money Order Num: 85937
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

PJH

Checks and drafts are accepted
subject to collections and full
credit will only be given when the
check or draft has been accepted by
the financial institution on which
it was drawn.